



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
			CY526

SCULLY, SCOTT, MURPHY & PRESSER  
200 GARDEN CITY PLAZA  
GARDEN CITY, NY 11530-3891

EXAMINER	
HOPPER, R.F.	
ART UNIT	PAPER NUMBER
1.872	11
DATE MAILED:	
05/19/89	

*Below is a communication from the EXAMINER in charge of this application*  
**COMMISSIONER OF PATENTS AND TRADEMARKS**

**ADVISORY ACTION**

THE PERIOD FOR RESPONSE:

is extended to run 4 months from the date of the Final Rejection  
 continues to run \_\_\_\_\_ from the date of the Final Rejection  
 expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

Appellant's Brief is due in accordance with 37 CFR 1.192(a).

Applicant's response to the final rejection, filed 4/24/89, has been considered with the following affect, but it is not deemed to place the application in condition for allowance:

1.  The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- They raise new issues that would require further consideration and/or search. (See Note).
- They raise the issue of new matter. (See Note).
- They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

2.  Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3.  Upon the filing of an appeal, the proposed amendment  will be  will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: 1

Claims objected to: \_\_\_\_\_

Claims rejected: 3 - 10

However:

- The rejection of claims \_\_\_\_\_ on references is deemed to be overcome by applicant's response.
- The rejection of claims \_\_\_\_\_ on non-reference grounds only is deemed to be overcome by applicant's response.

4.  The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection.

5.  The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

The proposed drawing correction  has  has not been approved by the examiner.

Other Applicants argument regarding the difference of the 40 kd antigen is convincing as to the antigen per se. However, there is no concrete evidence that the antibody of Bast et al differs from the present antibodies. Though Applicants urge that both the CA 125 antibody of Bast et al and the instant antibodies are capable of isolating the CA 125 antigen complex, that the antibodies are not identical and can be distinguished with known immunological techniques, no substantiating evidence or support of such a position is of record. Moreover, no demonstration of a lack of cross-reactivity or specificity between Applicants antigen and the Bast et al antibody is of record.

ROBERT J. WARDEN

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SUPERVISORY PATENT EXAMINER S.N. 042498

ART UNIT 182

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